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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/766,278

01/19/2001

Charles A. Jennings

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EXAMINER

BLAIR, DOUGLAS B

ART UNIT

PAPER NUMBER

2442

NOTIFICATION DATE

DELIVERY MODE

12/02/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspt@polsinelli.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/766,278	<b>Applicant(s)</b> JENNINGS ET AL.	
	<b>Examiner</b> DOUGLAS B. BLAIR	<b>Art Unit</b> 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-58, 60-102 and 107-134 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 45-58 and 60-101 is/are allowed.
- 6) ☒ Claim(s) 1-17, 19, 21-44, 102 and 107-134 is/are rejected.
- 7) ☒ Claim(s) 18 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/1/2010</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/23/2010 has been entered.

### ***Response to Arguments***

Applicant's arguments filed 8/23/2010 have been fully considered but they are not persuasive. The rejection has been revised to address the newly amended claim limitations. The claimed elements are not defined in the specification in any limiting manner. The claimed stream caster and stream routing processor are only limited by what is explicitly claimed about them. Though the applicant's remarks are persuasive with respect to the interpretation provided in the previous rejection, the amended claims still do not patentably distinguish from the Wisser reference. In Wisser, the Merchant Server 132 reads on the claimed stream routing processor and the combination of the Content Manager 112 and Deliver Server 118 read on the stream castor. The rejections in this office action illustrate the new mappings.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-17, 19, 21-44, 102, and 107-134 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,385,596 to Wiser et al.

As to claim 1, Wiser teaches a system for streaming media to a viewer for a request for the media, the system comprising: a stream routing processor (**merchant server 132**) executing instructions to: receive reservation data comprising a valid reservation identification (**col. 16, lines 44-48, the merchant server would receive both valid and non-valid requests from the user**); and transmit the valid reservation identification (**col. 16, line 66-col. 17, line 21**); and a stream caster (**the content manager 112 and delivery server 118 combine to perform the functions of the claimed stream caster and therefore are a "stream caster" as defined by the applicant**) to: receive a reservation identification for the request (**col. 19, lines 4-7**); receive the reservation data identifying the valid reservation identification from the stream routing processor (**col. 16, line 66-col. 17, line 21**); compare the reservation to the valid reservation identification to determine if the reservation is valid (**col. 19, lines 11-32**); and stream at least partially the media to the viewer when reservation identification is valid (**col. 19, lines 38-43**).

As to claim 10, Wiser teaches a stream routing processor (**merchant server**) executing instructions to: receive signaling inquiring if the switch can stream the requested media (**col. 16, line 66-col. 17, line 5**); determine if the switch is configured to stream the requested media (**col. 17, lines 6-21**); and receive reservation data comprising a valid reservation identification when

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the switch is configured to stream the media (**col. 17, lines 6-21**). As to the rest of claim 10, it is rejected for the same reasons as claim 1.

As to claim 102, Wiser teaches a switch controller to monitor the stream caster (**content manager and delivery server**) during streaming and to notify the stream routing processor of a status of the stream caster (**col. 15, lines 1-9, the functionality disclosed in this section reads on the switch controller which is not defined in any limiting fashion by the applicant's specification**). As to the rest of claim 102, it is rejected for the same reasons as claims 1 and 10.

As to claim 107 and 132-134, they are rejected for the same reasoning as claims 1 and 10.

As to claim 130, the delivery server does not send a media file anyway if the reservation is not confirmed by the content manager.

The limitations of the dependent claims are rejected according to the cited embodiment of Wiser and corresponding disclosure related to the cited embodiment. Should the applicant have any questions about a particular limitation, the applicant is invited to telephone the Examiner at the number listed at the conclusion of this office action for clarification.

#### ***Allowable Subject Matter***

Claims 45-58 and 60-101 are allowed.

Claims 18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:  
Wiser does not teach the state change claimed in claims 18 and 20 by the applicant nor is the

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limitation anticipated nor made obvious by the other prior art of record. Wiser reads on claims 17 and 19 because these claims only broadly deal with requested media, but they do not relate the portion of media together. In other words, two separate requests in Wiser would read on the portions claimed in 17 and 19 but would not cover the state change of claims 18 and 20.

Claims 45-58 and 60-101 are allowed as explained previously.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/  
Primary Examiner, Art Unit 2442